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SK USA Cleaners, Inc. and Local 947, International Union of Journeymen and Allied Trades. Case 22-CA-26959

March 22, 2006

DECISION AND ORDER

BY MEMBERS LIEBMAN, SCHAUWER, AND KIRSANOW

The General Counsel seeks a default judgment in this case on the ground that the Respondent has failed to file an answer to the complaint. Upon a charge and amended charges filed by the Union on June 20, August 18, and September 28, 2005, respectively, the General Counsel issued the complaint on September 30, 2005, against SK USA Cleaners, Inc., the Respondent, alleging that it has violated Section 8(a)(1) and (3) of the Act. The Respondent failed to file an answer.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

On November 9, 2005, the General Counsel filed with the Board a Motion for Default Judgment. On November 15, 2005, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed no response. The allegations in the motion are therefore undisputed.

Ruling on Motion for Default Judgment

Section 102.20 of the Board's Rules and Regulations provides that the allegations in a complaint shall be deemed admitted if an answer is not filed within 14 days from service of the complaint, unless good cause is shown. In addition, the complaint affirmatively stated that unless an answer was filed by October 14, 2005, all the allegations in the complaint could be found to be true. Further, the undisputed allegations in the General Counsel's motion disclose that the Region, by letter dated October 19, 2005, notified the Respondent that unless an answer was received by October 26, 2005, a motion for default judgment would be filed.

In the absence of good cause being shown for the failure to file a timely answer, we grant the General Counsel's motion for default judgment.

On the entire record, the Board makes the following

FINDINGS OF FACT

I. JURISDICTION

At all material times, the Respondent, a corporation, with an office and place of business in Garfield, New

Jersey, has been engaged in the commercial laundry business.

During the 12-month period preceding the issuance of the complaint, the Respondent, in conducting its operations, purchased and received at its Garfield, New Jersey facility goods valued in excess of \$50,000 directly from points outside the State of New Jersey.

We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act and that Local 947, International Union of Journeymen and Allied Trades, the Union, is a labor organization within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

At all material times the following individuals held the positions set forth opposite their respective names and have been supervisors of the Respondent within the meaning of Section 2(11) of the Act and agents of the Respondent within the meaning of Section 2(13) of the Act:

Cho Yi Jae	Owner
Mrs. Cho (Owner's Wife)	Pay Roll Administration

About May 2005, the Respondent, by Cho Yi Jae, in Garfield, New Jersey, interrogated and polled its employees about their union membership, activities, and sympathies.

About April, May, and June 2005, the Respondent, by Cho Yi Jae, in Garfield, New Jersey, threatened its employees with termination if they spoke with anyone from the Union.

About June 2005, the Respondent, by Cho Yi Jae, in Garfield, New Jersey, threatened its employees with a reduction in pay if the Union won the election.

About June 15, 2005, the Respondent, by Cho Yi Jae, in Garfield, New Jersey, made deductions from the paychecks of employees Margarita Hernandez, Urbano Guzman, Vickie Huesca, and Emma Huesca because of their support for the Union.

About June 15, 2005, the Respondent, by Mrs. Cho, in Garfield, New Jersey, threatened its employees with unspecified reprisals because of their support for the Union.

About June 15, 2005, the Respondent's employees, Margarita Hernandez, Urbano Guzman, Vickie Huesca, and Emma Huesca, engaged in a concerted refusal to work because the Respondent made the deductions from their paychecks described above.

About June 15, 2005, the Respondent terminated Margarita Hernandez, Urbano Guzman, Vickie Huesca, and Emma Huesca.

The Respondent discharged the employees named above because they engaged in the concerted refusal to work described above.

CONCLUSIONS OF LAW

1. By interrogating and polling employees regarding their union membership, activities, and sympathies, and by threatening employees because of their union support, the Respondent has interfered with, restrained, and coerced employees in the exercise of the rights guaranteed by Section 7 of the Act, in violation of Section 8(a)(1) of the Act.

2. By making deductions from the paychecks of employees Margarita Hernandez, Urbano Guzman, Vickie Huesca, and Emma Huesca, and by discharging them, the Respondent has discriminated in regard to the hire or tenure or terms and conditions of employment of its employees, thereby discouraging¹ membership in a labor organization, in violation of Section 8(a)(1) and (3) of the Act.

The unfair labor practices of the Respondent affect commerce within the meaning of Section 2(6) and (7) of the Act.

REMEDY

Having found that the Respondent has engaged in certain unfair labor practices, we shall order it to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act. Specifically, having found that the Respondent violated Section 8(a)(3) and (1) of the Act by discharging Margarita Hernandez, Urbano Guzman, Vickie Huesca, and Emma Huesca, we shall order the Respondent to offer them full reinstatement to their former jobs or, if those jobs no longer exist, to substantially equivalent positions, without prejudice to their seniority or any other rights and privileges previously enjoyed, and to make them whole for any loss of earnings and other benefits suffered as a result of the discrimination against them. Backpay shall be computed in accordance with *F. W. Woolworth Co.*, 90 NLRB 289 (1950), with interest as prescribed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987).

Further, having found that the Respondent violated Section 8(a)(3) and (1) by making deductions from the paychecks of Hernandez, Guzman, V. Huesca, and E. Huesca, we shall order the Respondent to make them whole for losses they suffered as a result of this conduct, pursuant to *Ogle Protection Service*, 183 NLRB 682 (1970), *enfd.* 444 F.2d 502 (6th Cir. 1971), with interest as prescribed in *New Horizons for the Retarded*, *supra*.

The Respondent shall also be required to remove from its files all references to the unlawful discharges of Hernandez, Guzman, V. Huesca, and E. Huesca, and to notify them in writing that this has been done and that the discharges will not be used against them in any way.

ORDER

The National Labor Relations Board orders that the Respondent, SK USA Cleaners, Inc., Garfield, New Jersey, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Interrogating and polling employees about their union membership, activities, and sympathies.

(b) Threatening employees with discharge if they speak with representatives of Local 947, International Union of Journeymen and Allied Trades, or any other labor organization.

(c) Threatening employees with a reduction in pay and other unspecified reprisals if they vote for union representation.

(d) Failing and refusing to pay employees their full wages because they support the Union, or any other labor organization.

(e) Discharging employees because they engage in a concerted refusal to work.

(f) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Within 14 days from the date of this Order, offer Margarita Hernandez, Urbano Guzman, Vickie Huesca, and Emma Huesca full reinstatement to their former jobs or, if those jobs no longer exist, to substantially equivalent positions, without prejudice to their seniority or any other rights and privileges previously enjoyed.

(b) Make whole Margarita Hernandez, Urbano Guzman, Vickie Huesca, and Emma Huesca for any loss of earnings and other benefits resulting from the refusal to pay them their full wages and their subsequent unlawful discharges, with interest, in the manner set forth in the remedy section of this decision.

(c) Within 14 days from the date of this Order, remove from its files all references to the unlawful discharges of Margarita Hernandez, Urbano Guzman, Vickie Huesca, and Emma Huesca and, within 3 days thereafter, notify them in writing that this has been done and that the unlawful discharges will not be used against them in any way.

¹ Par. 20 of the complaint states that the Respondent has been "encouraging" membership in a labor organization in violation of Sec. 8(a)(1) and (3) of the Act. We correct this inadvertent error.

(d) Preserve and, within 14 days of a request, or such additional time as the Regional Director may allow for good cause shown, provide at a reasonable place designated by the Board or its agents, all payroll records, social security payment records, timecards, personnel records and reports, and all other records, including an electronic copy of such records if stored in electronic form, necessary to analyze the amount of backpay due under the terms of this Order.

(e) Within 14 days after service by the Region, post at its facility in Garfield, New Jersey, copies of the attached notice marked "Appendix."² Copies of the notice, on forms provided by the Regional Director for Region 22, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places, including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since April 2005.

(f) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C. March 22, 2006

Wilma B. Liebman, Member

Peter C. Schaumber, Member

Peter N. Kirsanow, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

² If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

APPENDIX

NOTICE TO EMPLOYEES

POSTED BY ORDER OF THE

NATIONAL LABOR RELATIONS BOARD

An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union

Choose representatives to bargain with us on your behalf

Act together with other employees for your benefit and protection

Choose not to engage in any of these protected activities.

WE WILL NOT interrogate or poll you about your union membership, activities, and sympathies.

WE WILL NOT threaten you with discharge if you speak with representatives of Local 947, International Union of Journeymen and Allied Trades, or any other labor organization.

WE WILL NOT threaten you with a reduction in pay or other unspecified reprisals if you vote for union representation.

WE WILL NOT refuse to pay you your full wages because you support the Union, or any other labor organization.

WE WILL NOT discharge you because you engage in a concerted refusal to work.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL, within 14 days from the date of the Board's Order, offer Margarita Hernandez, Urbano Guzman, Vickie Huesca, and Emma Huesca full reinstatement to their former jobs or, if those jobs no longer exist, to substantially equivalent positions, without prejudice to their seniority or any other rights and privileges previously enjoyed.

WE WILL make whole Margarita Hernandez, Urbano Guzman, Vickie Huesca, and Emma Huesca for any loss of earnings and other benefits resulting from our unlawful refusal to pay them their full wages and their unlawful discharges, with interest.

WE WILL, within 14 days from the date of the Board's Order, remove from our files all references to the unlawful discharges of Margarita Hernandez, Urbano Guzman, Vickie Huesca, and Emma Huesca, and WE WILL, within 3 days thereafter, notify them in writing that this has

been done, and that the unlawful discharges will not be used against them in any way.

SK USA CLEANERS, INC.